

### **REMARKS**

Claims 1-15 are pending in the subject application. Claims 1 and 11 are the only pending independent claims. Reconsideration of the previous rejections in light of the remarks that follow is respectfully requested.

#### **1. 35 U.S.C. §102 Rejections**

Claims 1-4 and 11 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,452,089 to Bushman (hereinafter “Bushman”).

With respect to claim 1, Applicant recites in part, a method for detecting an object from its background comprising the steps of “determining the presence of an object when a visual difference between the object and background is discerned when the sensitivity of the viewing device is changed to a certain mixture of wavelengths of light.”

The Examiner asserts that column 5 lines 3-43 of Bushman teaches this aspect of claim 1. Applicants respectfully disagree. Bushman describes an object locator which employs a flashing search light with a polarizer having variable polarization angles. In particular, a light source is focused into a beam of light that sweeps the terrain as the polarizer rotates. Light reflected from man-made objects appears to flash due to the rotation of a polarizer, while natural objects do not flash because they do not produce a strong polarizing contrast.

The present invention, on the other hand, teaches that an object is detected by selectively and variably adding or blocking the sensitivity of the device to certain wavelengths of light as discussed in the originally filed specification for example at page 5, lines 10-20; page 7, lines 7-11, 21-22; page 8, lines 1-2; page 9, lines 5-8; page 13, lines 17-23; page 20, lines 1-7, 18-23.

Thus, Bushman clearly at least fails to teach that the presence of an object is determined when a visual difference between the object and background is discerned “when the sensitivity of the viewing device is changed to a certain mixture of wavelengths of light.”

With respect to independent claim 11, Applicants recite in claim 11, an apparatus for detecting an object from its background or surroundings comprising: an electro-optical viewing device being capable of detecting light in one of the ultraviolet (UV) range, the visible range, the near infrared or the far infrared; and a mechanism, disposed between the object and the electro-optical viewing device, configured and arranged to selectively and varyingly change the optical input to the electro-optical viewing device lying in one of the ultraviolet (UV) range, the visible range, the near infrared or the far infrared.

Applicants respectfully submit that claim 11 is patentable over Bushman for at least the same reasons as set forth with respect to claim 1. Namely, Bushman at least fails to teach or suggest a device or method for detection of an object by selectively and variably adding or blocking the sensitivity of the device to certain wavelengths of light.

In view of the foregoing arguments, Applicant respectfully submits that claims 1 and 11 are patentable over Bushman. Claims 2-4 depend from claim 1 and, thus, also are patentable over Bushman. Reconsideration and withdrawal of the rejection is respectfully requested.

## 2. 35 U.S.C. §103 Rejections

### ***Bushman and Miller***

Claims 5-10 and 12-14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bushman in view of U.S. Patent No. 5,940,183 to Miller (hereinafter “Miller”). Applicants respectfully traverse.

As set forth above with respect to independent claims 1 and 11, Bushman fails to teach or suggest Applicants’ claimed method and device.

The Office Action acknowledges that Bushman fails to specifically disclose “wherein the filters comprise a plurality of bandpasses wherein each bandpass has a predetermined

bandwidth.” Applicants submit that Miller fails to remedy the above-noted deficiencies of Bushman.

Applicants respectfully submit that Miller describes a very different device and method than those taught by Applicants. Miller describes a filter assembly that includes a plurality of filters each passing a center wavelength of a bandpass that is different than that of the other filters. Miller’s filter assembly is used in chromatography. Particularly, Miller uses a filter assembly in a detecting station in an analyzer, wherein the filter assembly is used to analyze various assays (e.g. nucleic acids) for clinical applications. According to Miller, a plurality of filters is provided to automatically correct for longitudinal chromatographic aberrations caused by non-collimated light passing through filter bandpasses of differing center wavelength values.

Miller at least fails to teach or suggest a device or method for detection of an object by selectively and variably adding or blocking the sensitivity of the device to certain wavelengths of light.

Further, it is respectfully submitted that there is no teaching or suggestion to modify Bushman’s device (which sweeps a beam of light across a terrain as a polarizer rotates such that light reflected from man-made objects appears to flash) with Miller’s device (which is used in clinical assays to correct for chromatographic aberrations caused by non-collimated light). These are two completely different types of devices that are specifically designed for distinct purposes and, thus, have different requirements. Further, there is no teaching or suggestion that such a modification of Bushman in view of Miller could be made or that such a modification would be successful.

Accordingly, claims 1 and 11 are patentable over Bushman and Miller. Claims 5-10 and 12-14 depend from claims 1 and 11 and, thus, also are patentable over Bushman and Miller. Reconsideration and withdrawal of the rejection is respectfully requested.

***Bushman, Miller, and Korniski***

Claim 15 stands rejected under 35 U.S.C. §103(a) over Bushman, Miller, and U.S. Patent No. 6,646,799 to Korniski et al. (hereinafter “Korniski”).

As set forth above with respect to independent claims 1 and 11, Bushman and Miller fail to teach or suggest Applicants’ claimed method and device.

The Office Action acknowledges that Bushman and Miller fail to specifically disclose where the amount of light in each of the viewing bandpasses is successively and separately added into the image forming sensitivity of the color image viewing device.

Korniski describes a sensor that operates in multiple bands of radiation and displays either one radiation band alone or multiple overlaid bands. However, Korniski does not remedy the deficiencies of Bushman and Miller discussed above. In particular, Korniski does not teach or suggest devices or methods for detecting an objected by selectively and variably adding or blocking the sensitivity of the device to certain wavelengths of light.

Accordingly, claim 11 is patentable over Bushman, Miller, and Korniski. Claim 15 depends from claim 11 and, thus, also is patentable over Bushman, Miller, and Korniski. Reconsideration and withdrawal of the rejection is respectfully requested.

**CONCLUSION**

It is believed the application (Claims 1-15) is in condition for immediate allowance, which action is earnestly solicited.

If for any reason a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge or credit Deposit Account No. 04-1105 under Order No. 58096(71106).

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